

Assembly Bill No. 1079

Passed the Assembly September 10, 2009

Chief Clerk of the Assembly

Passed the Senate September 3, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 71103.5 to the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1079, V. Manuel Perez. Environment: California-Mexico border.

Existing law creates the California Border Environmental and Public Health Protection Fund. The money in that fund is available, upon appropriation, to the Secretary for Environmental Protection to assist local governments in implementation of projects to identify and resolve environmental and public health problems that directly threaten the health or environmental quality of California residents or sensitive natural resources of the California border region, to provide technical assistance, to provide funds for equipment and labor costs associated with emergency abatement of environmental and public health problems imposed on residents of California due to cross-border impacts of pollutants originating from Baja California, and to provide analytical and scientific equipment and services needed by border area public agencies to identify and monitor the sources of environmental and public health threats posed by the cross-border transmission of environmental pollutants and toxics.

This bill would, contingent upon the execution of an agreement with the City of Calexico for the purpose of providing the necessary funding, require the California-Mexico Border Relations Council to develop a strategic plan containing specific elements to guide the implementation of the New River Improvement Project. The bill would authorize the council to appoint, convene, and oversee a technical advisory committee that would advise the council regarding the necessary studies and activities to carry out the project. The bill would create the New River Improvement Project Account in the fund and moneys in the account, upon appropriation by the Legislature, would be expended for activities related to the New River.

The people of the State of California do enact as follows:

SECTION 1. Section 71103.5 is added to the Public Resources Code, to read:

71103.5. (a) The Legislature finds and declares all of the following:

(1) The New River poses an imminent and severe threat to the public health of residents of Calexico, California, and adjacent communities in Imperial County. Since the 1940s, the New River has been recognized as a significant pollution and human health problem, primarily because of extremely high concentrations of fecal coliform bacteria.

(2) While there have been recent measurable water quality improvements as a result of sewage infrastructure projects implemented and completed during the last 10 years in Mexicali, Mexico, the residual and projected pollution in the New River coming from Mexico remains a significant threat to public health and the environment.

(3) Current bacteria levels in the New River are several orders of magnitude above the state standards for bacteria. Based on these levels and the historic levels of pollution, the waterway is believed to carry pathogens that cause tuberculosis, encephalitis, polio, cholera, hepatitis, and typhoid. The waterway also carries other contaminants in concentrations that are in violation of federal, state, and Mexican water quality standards by several hundredfold.

(4) The New River is listed as an impaired river by the United States Environmental Protection Agency due to low dissolved oxygen (DO) and the presence of chlordane, chlorpyrifos, copper, dichloro-diphenyl-trichloroethane (DDT), diazinon, dieldrin, mercury, nutrients, pathogens, polychlorinated biphenyls (PCBs), sediment, selenium, toxaphene, toxicity, trash, and volatile organic compounds (VOCs).

(5) The New River is a major contributor of pollution to the Salton Sea, and failure to address water quality problems in the New River are impeding the ability of the state to implement laws and programs designed to restore and protect this important environmental and wildlife habitat resource.

(6) The New River condition in the border area is also an aesthetic nuisance for Calexico residents and has historically inhibited the city's socioeconomic well-being and growth.

(7) A coordinated and comprehensive state strategy is needed to deal with the residual and projected pollution so that the New River and associated river channel can be enhanced to a condition that will allow the residents of Calexico and Imperial County to utilize them as recreational and natural assets as contemplated in the California River Parkways Act of 2004 (Chapter 3.8 (commencing with Section 5750) of Division 5).

(8) In the Budget Act of 2009, as amended by Chapter 1 of the Statutes of 2009 Fourth Extraordinary Session, eight hundred thousand dollars (\$800,000) was appropriated to the City of Calexico for various planning needs necessary to develop a river parkway plan and river improvement project for the New River. The moneys were appropriated in order to secure and serve as matching funds for the four million dollars (\$4,000,000) allocated pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) to the City of Calexico for the development of bicycle paths and public park space adjacent to the New River.

(9) The City of Calexico, as the recipient of funding pursuant to the California River Parkways Act of 2004, has agreed to provide necessary financial support to the council for the development of the council's strategic plan.

(b) As used in this section, the following terms have the following meanings:

(1) "Agency" means the California Environmental Protection Agency.

(2) "City" means the City of Calexico, California.

(3) "Council" means the California-Mexico Border Relations Council established pursuant to Section 8711 of the Government Code.

(4) "County" means the County of Imperial, California.

(5) "IBWC" means the International Boundary and Water Commission, United States Section.

(6) "New River Improvement Project" or "project" means a project to study, monitor, remediate, and enhance New River water quality in the County of Imperial to protect human health, and develop a river parkway suitable for public use and enjoyment.

(c) Pursuant to the authority granted to the council under Section 8712 of the Government Code and contingent upon the execution of an agreement with the City of Calexico for the purpose of

providing the necessary funding, the council shall develop a strategic plan to guide the implementation of the New River Improvement Project. The strategic plan shall include, but need not be limited to, all of the following elements:

(1) Quantification of current and projected New River water quality impairments and their threat to public health.

(2) Prioritization of the actions necessary to protect public health and to meet New River water quality objectives and other environmental goals, such as improving the quality of water flows into the Salton Sea.

(3) Identification of potential funds for the implementation of the project, and potential lead agencies that would be responsible for environmental review of activities related to the cleanup and restoration of the New River.

(4) Identification of the appropriate federal, state, and local agencies with a role in implementing and achieving the New River Improvement Project.

(d) (1) To the extent permitted by law, the council may work with appropriate binational, federal, state, local, and nongovernmental organizations on both sides of the California-Mexico border to develop the strategic plan and to fund and establish cooperative water quality monitoring, public health studies, inspection, and technical assistance programs as needed to support, convene, and oversee the project.

(2) To further the objectives of this subdivision, the council may convene and oversee a technical advisory committee. The advisory committee shall advise the council regarding the necessary studies and activities to carry out the project, and shall serve at the pleasure of the council. The advisory committee shall include representatives from the following:

(A) Impacted cities and counties.

(B) Relevant local, regional, and state agencies and departments.

(C) Nongovernmental organizations.

(D) Other stakeholders deemed necessary by the council.

(3) The council shall appoint the chair of the committee and may expand the membership and expertise of the committee as it deems necessary.

(4) The council may enter into an agreement, including an interagency agreement and memorandum of understanding, with

public agencies, including the city, to accept, manage, and expend funds for the implementation of this section.

(e) This section does not modify existing roles, responsibilities, or liabilities of the State of California, the City of Calexico, Imperial County, or any other governmental agency, under those laws that regulate, protect, and clean up surface waters entering the United States from Mexico.

(f) The New River Improvement Project Account is hereby created in the California Border Environmental and Public Health Protection Fund to receive moneys for activities related to the New River Improvement Project from sources identified in Section 71101 and other sources. Upon appropriation by the Legislature, moneys in the account shall be expended to implement the purposes identified in subdivision (c) or Section 71102 that are related to the New River.

Approved _____, 2009

Governor